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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,392	12/07/2000	Richard Alan Haase	0170SS-45347	7432

7590 12/08/2003  
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EXAMINER

BARRY, CHESTER T

ART UNIT PAPER NUMBER

1724

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

APPLICATION

<b>MERGED REISSUE/</b> <b>Ex Parte Reexamination Interview Summary</b>	Control No.	Patent Under Reexamination	
	<del>99/005,748</del> 09/733,392	5846435	CTB
Examiner	Art Unit		
Chester T. Barry	1724		

All participants (USPTO personnel, patent owner, patent owner's representative):

(1) Chester T. Barry (3) \_\_\_\_\_

(2) Mr. Robinson (4) \_\_\_\_\_

Date of Interview: 11/10/03-11/11/03

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal (copy given to: 1) ☐ patent owner 2) ☐ patent owner's representative)

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.  
 Any other agreement(s) are set forth below under "Description of the general nature of what was agreed to..."

Claim(s) discussed: see text below.

Identification of prior art discussed: NONE.

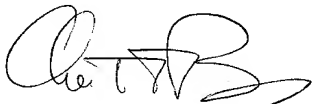
Description of the general nature of what was agreed to if an agreement was reached, or any other comments:  
See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims patentable, if available, must be attached. Also, where no copy of the amendments that would render the claims patentable is available, a summary thereof must be attached.)

A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION MUST INCLUDE PATENT OWNER'S STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. (See MPEP § 2281). IF A RESPONSE TO THE LAST OFFICE ACTION HAS ALREADY BEEN FILED, THEN PATENT OWNER IS GIVEN **ONE MONTH** FROM THIS INTERVIEW DATE TO PROVIDE THE MANDATORY STATEMENT OF THE SUBSTANCE OF THE INTERVIEW (37 CFR 1.560(b)). THE REQUIREMENT FOR PATENT OWNER'S STATEMENT CAN NOT BE WAIVED. **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

ATTACHMENT: 62 PAGE FAX

cc: Requester (if third party requester) CTB

  
 Examiner's signature, if required

Continuation of Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Robinson called for the status of the after final amendment filed on Sept 12th, 2003. The examiner stated he had not seen that paper, that no such amendment was in either the reexam file wrapper or the reissue file wrapper, and the PALM system did not indicate receipt of any such amendment. It appeared that 703-872-9314, the fax number to which the paper was twice sent according to Mr. Robinson, was not a TC 1700 fax number. It appeared, according to Mr. Robinson, that the fax number was a TC 2600 fax number. The examiner commented that even if the paper were found by 11/10/03, there would be no assurance that a determination could be made that the paper was entitled to entry no later than the six-month statutory deadline of 11/13/03 (11/11/03 being a Federal holiday). Furthermore, there was the possibility that consideration of the art cited by applicant/owner could not be had after final rejection. In light of these factors, the examiner recommended that applicant prepare a Request for Continued Examination (RCE) so that consideration of such art and entry of the paper would be a matter of right. Nevertheless, the examiner suggested that a courtesy copy of the 9/12/03 paper be faxed to the examiner's personal office fax number so that a cursory review of the paper could be made to see if entry would be appropriate. The 62-page paper is attached, but NOT ENTERED. The examiner's cursory review on 11/11/03 found that the paper does not place the application in condition for allowance AT LEAST for the following reasons: Deletion of "cationic" from claim 4 introduces new 112/2nd issues (claims 5- 6); insertion of "according to claim 1" in claim 15 introduces new 112/2nd issues (does the phrase modify "sludge" or "composition"? Claim 1 is not directed to a composition); the change from "comprises" to "compromises" in claim 24 is not properly underlined / bracketed; the change from "in an amount" to "in amount" is neither grammatically correct nor properly underlined / bracketed (claim 25); the changes from "of" to "if" in claim 26 line 2 and from "(epi-DMA) compounds" to "(epi-DMA)" are neither grammatically correct nor properly denoted by bracketing / underlining; the presence of "cationic" in claim 27 and "anionic" in claim 29 raise 112/2nd issues. Insofar as the EPA document addresses a point (ease / difficulty of dewatering thermophilic sludges) that was first adopted by the examinee before final rejection, applicant/owner's citation to the EPA reference in rebuttal first made AFTER final is deemed untimely. Accordingly, applicant / owner is not entitled to consideration of the EPA article after final rejection. Even if he were entitled to such consideration of the reference, it could not be considered to be compliant with 37 CFR 1.97 - 1.98 for want of a legible copy of the same: The faxed copy is not legible. As for the Novak article, it is not prior art, nor has it been listed on an IDS, so it is unclear whether it should / must be considered at all and if so, for what purpose. The Audrey Haase declaration is not entitled to consideration after final action because it is not directed solely to issues raised in the final action. Insofar as the two copies of the 9/12/03 paper have not "caught up" with the respective files, the examiner suggested that if applicant requests continued examination, that the following be filed no later than 11/13/03: A three month time extension, a preliminary amendment responsive to the final action, and an RCE form in which entry of the 9/12/03 paper is NOT requested.